

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

In re: \_\_\_\_\_ ) Chapter 11  
                  ) \_\_\_\_\_  
EASTERN LIVESTOCK CO., LLC,         ) Case No. 10-93904-BHL-11  
                  ) \_\_\_\_\_  
                  Debtor.                 ) \_\_\_\_\_

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**TRUSTEE'S OBJECTION TO CLAIM 355 FILED BY PHILLIP TAYLOR REED AND  
NOTICE OF RESPONSE DEADLINE**

James A. Knauer, the chapter 11 trustee appointed in this case ("Trustee"), pursuant to Rule 3007 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), hereby objects (this "Objection") to claim 355 (the "Claim")<sup>1</sup> filed by Phillip Taylor Reed. The Trustee requests that the Court enter an order reclassifying the Claim as a general unsecured claim and reserves the right to object to the final allowed amount of the Claim if and when Phillip Taylor Reed receives payments outside the plan distributions made to Phillip Taylor Reed in this case. In support of this Objection, the Trustee respectfully states:

**Jurisdiction**

1. This Court has jurisdiction over this Objection under 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(B). Venue of this proceeding and this Objection is properly in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are 11 U.S.C. §§ 502, 506 and 507 and Rules 3001 and 3007 of the Bankruptcy Rules.

**Background**

3. On December 6, 2010 (the "Petition Date"), an involuntary chapter 11

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<sup>1</sup> All references herein to the claim number are to the number assigned to the Claim by BMC (see paragraph 5 below) and not to the number, if any, assigned to the Claim by the Court's online claims register. For further explanation, see paragraph 5 below.

bankruptcy petition was filed to commence a chapter 11 case (the "Chapter 11 Case") against Eastern Livestock Co., LLC ("Debtor") in the United States Bankruptcy Court for the Southern District of Indiana, New Albany Division (the "Court").

4. On December 27, 2010, the Court entered an order approving the appointment of the Trustee and on December 28, 2010, entered an order for relief.

5. On March 17, 2011, the Court entered an order approving The BMC Group, Inc. ("BMC") as the Trustee's claims and noticing agent in the Chapter 11 Case. Pursuant to that order, BMC was authorized and directed to, among other things, maintain the official claims register ("Claims Register") for all filed proofs of claim in the Chapter 11 Case. A copy of that Claims Register and all filed proofs of claim in the Chapter 11 Case can be viewed at <http://www.bmcgroup.com/restructuring/Claims.aspx?ClientID=271>.

### **Request for Relief**

6. By this Objection, the Trustee seeks entry of an order reclassifying the Claim as a general unsecured claim in an amount to be determined after Phillip Taylor Reed receives all non-plan payments.

7. The Claim asserts a secured "purchase money" claim in the amount of \$391,155.40. As the purported basis for secured status, the Claim provides: "Security Interest in and/or ownership of cattle and all proceeds thereof, which on information and belief, Debtor sold and was paid for, but for which Creditor was not paid due to checks being returned to Creditor's Bank by Debtor's Bank." The Claim does not attach any financing statement, security agreement or other basis by which Phillip Taylor Reed perfected a security interest in cattle sold to Debtor. The Trustee is not aware of any basis by which to award the Claim secured status.

8. The Claim is also duplicative of claim number 354 filed by Ron P. Reed.

Claim 354 asserts a \$175,044.18 secured claim on account of cattle already covered in the Claim.

The claimants are only entitled to one recovery.

9. Further, the Trustee believes that Phillip Taylor Reed may receive payments from alternative sources, including the Debtor's GIPSA bond, that will reduce the amount of the Claim. The Trustee therefore reserves the right to object to the amount of the Claim at a later time.

10. The Trustee objects to the Claim and requests that the Claim be reclassified as a general unsecured claim in an amount to be determined after Phillip Taylor Reed receives all non-plan payments.

**Notice of Response Deadline**

11. If Phillip Taylor Reed wishes to contest the relief requested in this Objection, Phillip Taylor Reed must file a response with the Court within thirty (30) days of the service of this Objection ("Response Deadline"). Responses must be filed with the Clerk of the United States Bankruptcy Court, Southern District of Indiana, New Albany Division, 110 U.S. Courthouse, 121 West Spring Street, New Albany, IN 47150 no later than 4:30 p.m. EDT on the Response Deadline and served on Trustee's Counsel, Faegre Baker Daniels LLP, 300 N. Meridian Street, Suite 2700, Indianapolis, IN 46204 (Attn: Dustin DeNeal). **IF NO RESPONSE IS FILED BY THE RESPONSE DEADLINE THE COURT MAY SUSTAIN THE OBJECTION TO THE CLAIM WITHOUT FURTHER NOTICE OR HEARING.**

WHEREFORE, the Trustee respectfully requests that the Court enter an Order reclassifying the Claim as a general unsecured claim (subject to reduction in claim amount if Phillip Taylor Reed receives payment from non-plan sources) and granting the Trustee all other just and appropriate relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Dustin R. DeNeal

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#### CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on March 11, 2013, a copy of the foregoing pleading was mailed by first-class U.S. Mail, postage prepaid and properly addressed, to the following:

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